

DEPARTMENT OF THE ARMY PERMIT

Permittee: Peabody Midwest Mining LLC

Permit Number: LRL-2013-423-sew

Issuing Office: U.S. Army Engineer District, Louisville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The surface coal mining project would fill 30,252 linear feet of ephemeral streams, 53,756 linear feet of intermittent streams, 350 linear feet of perennial streams, 20.63 acres of palustrine forested (PFO) wetlands, 1.83 acres of palustrine scrub/shrub (PSS) wetlands, 3.37 acres of palustrine emergent (PEM) wetlands, 1.39 acres of palustrine unconsolidated bottom (PUB) wetlands, and 5.85 acres of open waters. All economically recoverable coal would be removed during the excavation of the area, processed, and sold. The area would be returned to approximate original contours, covered with stockpiled soil material, revegetated, and returned to an approved post-mine land use through the SMCRA process. All of the surface runoff from the areas disturbed by mining operations would pass through sediment ponds before leaving the site and entering downstream waters. The estimated life of the mine is approximately 5 years.

Upon completion of mining, the surface support area would be returned to approximate original contours (AOC), revegetated, and returned to approved post-mine land use through the SMCRA process. To mitigate the impacts to "waters of the U.S.", the applicant has both on-site and off-site mitigation. For the on-site portion of the mitigation, ephemeral streams would be mitigated at a 0.5:1 ratio, resulting in the construction of 15,128 linear feet of stream. Intermittent streams would be mitigated at a 1:1 ratio, resulting in the construction of 53,756 linear feet of stream. The 350 linear feet of perennial stream impacts would result from a temporary crossing of the dragline to be utilized for the project. The mitigation would restore the 350 linear feet by reshaping the banks to approximate original contours and removing the fill required to support the equipment during the crossing. Stream construction would be conducted concurrently with the reclamation phase of the project. Streams would be integrated within constructed valleys having characteristics corresponding to the appropriate stream types. Valley morphology would consist of landform features that would correspond to the stream system morphology including meander planform (radius of curvature, wavelength, belt width, and sinuosity), channel profile morphology (riffle/pool or step/pool bed features) and cross section dimensions (low flow, bankfull, and flood prone). A 25-foot forested riparian buffer would be constructed along each side of ephemeral streams, providing a 50-foot wide riparian corridor along the entire length of the constructed ephemeral streams. For intermittent streams, a 50-foot wide forested riparian buffer would be constructed along each side of the mitigated streams, resulting in a 100-foot wide riparian corridor along all intermittent stream mitigation. The mitigation plan also addresses the control of invasive and exotic plant species.

Off-site mitigation would be conducted at 2 separate off-site mitigation areas. There would be one off-site stream mitigation project in each of the two 12-digit Hydrologic Unit Codes (HUC's) in which the impacts would occur. The first would be an 1100 linear foot restoration of an ephemeral tributary to Smith Fork. The restoration would include utilizing natural stream channel design to remove incision and bank stability issues while incorporating an increase in desirable stream habitat. Additionally, the forested riparian zone would be increased in width along one side and increased in desirable native hard mast tree species on both sides. The remaining off-site mitigation would be implemented along a 650 linear foot intermittent stream which is a tributary to Big Creek. The 650 linear foot segment would be an enhancement project which would include the installation of 3 engineered Newbury Rock Riffles. These riffles would provide approximately 300 feet of riffle habitat and would raise the bed elevation along the reach approximately 1.5 feet. This would reduce overall stream entrenchment, decrease bank toe instability issues, and raise the overall local water table to support adjacent wetlands. Additionally, 8.3 acres of timber stand improvement would be made on adjacent wetland areas and upland forest buffers. The timber stand improvement would be made by selectively girdling competing trees to open up the canopy and allow more desirable hard mast tree species to be planted

The applicant would conduct biannual inspections of the mitigation streams, submitting monitoring reports to the Corps on an annual basis. These monitoring reports would include a discussion of inspection findings, documenting conditions such as bank erosion, streambed characteristics, vegetation survival, and exotic and/or invasive species issues. Also as part of monitoring the applicant would utilize the U.S. Environmental Protection Agency's (USEPA) Rapid Bioassessment Protocol for Use in Wadable Streams and Rivers (RBP)(1999) to evaluate the quality of the mitigated streams in comparison to the impacted streams. At the end of the mitigation monitoring period and prior to release from monitoring, the applicant would use the RBP to evaluate the quality of the mitigated streams in comparison to the impacted and would achieve an overall RBP score equal to or greater than 101 for ephemeral streams, 107 for intermittent streams, and 134 for the perennial stream. These scores would be achieved through the incorporation of natural stream channel design techniques throughout the mitigation construction process. Furthermore, each stream would be constructed to appropriately fit the post-mining geomorphic landscape (valleys), and as noted above, forested riparian corridors would be planted along the entire length of each mitigation stream length. These measures would all help to create a more functional and stable stream system on the post-mine landscape.

The applicant would conduct biannual inspections of the mitigation sites, submitting monitoring reports to the Corps on an annual basis. These monitoring reports would include a discussion of inspection findings, documenting conditions such as soil characteristics, hydrology and vegetation survival. Monitoring wells would be installed to measure and document soil saturation conditions in all wetland mitigation areas.

The applicant would also mitigate the 5.85 acres of open water by re-establishing a minimum of 30.0 acres of open waters on the post mine landscape.

LATITUDE & LONGITUDE: Latitude: 38.21833° North
Longitude: -87.33528° West
7.5 Minute Quad: Lynnville, Indiana

1. The time limit for completing the authorized activity ends on December 31, 2024. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith

transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions:

a. The permittee shall adhere to the Mitigation Plan for Stream and Wetland Impacts revised June 4, 2014. Any modification to the mitigation plans or proposed mitigation locations is required to be submitted to this office prior to construction. Within 6 months of completion of the mitigation construction, as-built plans documenting the final conditions of the streams and wetlands shall be submitted to this office for review and approval.

b. All of the mitigation shall be protected in perpetuity by having the respective property owner(s) on whose property the mitigation property is located execute a completed DECLARATION OF RESTRICTIVE COVENANTS, which shall be in the same form and contain the same terms as the DECLARATION OF RESTRICTIVE COVENANTS contained in the application/mitigation plan.

For the on-site mitigation, within 60 days of mitigation construction completion per tract, a final draft of the DECLARATION OF RESTRICTIVE COVENANTS and its' exhibits must be provided to and approved by the Corps of Engineers, Louisville District. The permittee shall ensure that the approved DECLARATION OF RESTRICTIVE COVENANTS is recorded with the property deed on all on-site mitigation sites, within 60 days of Corps approval.

For the off-site mitigation, within 60 days of permit issuance, the DECLARATION OF RESTRICTIVE COVENANTS and its' exhibits must be provided to and approved by the Corps of Engineers, Louisville District. The permittee shall ensure that the approved DECLARATION OF RESTRICTIVE COVENANTS is recorded with the property deed on all off-site mitigation sites, within 60 days of Corps approval.

In the event the permittee fails to provide a DECLARATION OF RESTRICTIVE COVENANTS that assures long term protection of the mitigation property or fails to ensure that the approved DECLARATION OF RESTRICTIVE COVENANTS is properly executed and recorded, the permittee shall provide alternative mitigation acceptable to this office within ninety (90) days of notice of such failure from this office.

c. The permittee's responsibility to complete the required compensatory mitigation proposal in Special Conditions "a thru b" above shall not be considered fulfilled until mitigation success has been demonstrated and written verification is received from the U. S. Army Corps of Engineers.

d. To meet the requirements of the Endangered Species Act and to prevent incidental take from the removal of an occupied roost tree, the permittee shall avoid tree clearing along waterways and adjacent forested areas during the Indiana bat reproductive season (April 1 – September 30).

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Bryan R. West, Authorized Representative
(PERMITTEE)

9/29/14
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

CHRISTOPHER G. BECK
Colonel, Corps of Engineers
Commanding

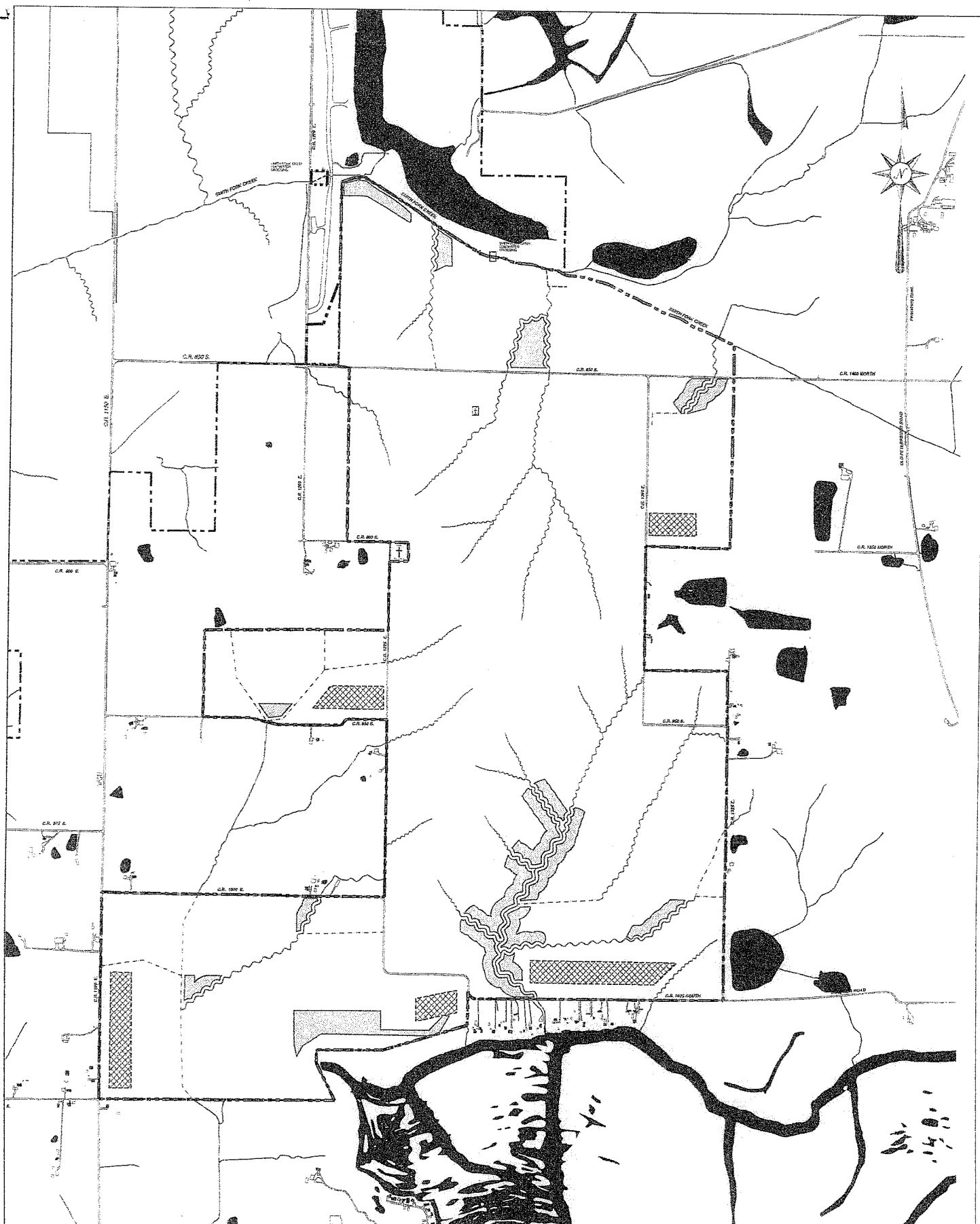
9/29/14
(DATE)

Sam Werner
BY: Sam Werner
Project Manager
Regulatory Branch

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)



LEGEND

■■■■■■ USAGE PERMIT BOUNDARY
 ■■■■■■ PERMIT S-00335-3
 ■■■■■■ SOMERVILLE MINE COMPLEX
 ■■■■■■ STRUCTURES
 ■■■■■■ ROADS
 ■■■■■■ EXISTING STREAMS

/ / / / NATURAL DESIGN
 / / / / STREAM MITIGATION
 / / / / (EPHEMERAL/INTERMITTENT)
 / / / / ENHANCED LINEAR
 / / / / STREAM MITIGATION
 / / / / (EPHEMERAL/INTERMITTENT)
 - - - - GIBSON COUNTY
 - - - - REGULATED DRAINS
 ■■■■■■ WETLAND MITIGATION
 ■■■■■■ ACQUITTANCE AREA

Peabody

PEABODY MIDWEST MINING, LLC
 Evansville, Indiana

PERMIT NO.: S-00335-3	PROJECT NAME: SOMERVILLE SOUTH MINE (AMENDMENT 3)
SCALE: 1" = 2,000'	QUADRANGLE: LYNNVILLE INDIANA, USGS 7.5 MIN. QUAD
DRAWN BY: AMB	DESCRIPTION: SECTIONS 19, 20, 25, 30, 31, AND 32 IN
DATE: MAY 1, 2013 - REV. OCTOBER 4, 2013	TOWNSHIP 3 SOUTH, RANGE 8 WEST IN GIBSON COUNTY, INDIANA

SOMERVILLE SOUTH MINE (AMENDMENT 3)
STREAM AND WETLAND MITIGATION MAP
 (PRELIMINARY LOCATIONS)